

1 Ja Vonne M. Phillips, Esq. SBN 187474
2 Brielyn Sesko, Esq. SBN 241596
3 **McCarthy & Holthus, LLP**
4 1770 Fourth Avenue
San Diego, CA 92101
Phone (619) 685-4800
Fax (619) 685-4810

5 Attorney for: Secured Creditor,
6 OneWest Bank, FSB, its assignees and/or successors
7

8 UNITED STATES BANKRUPTCY COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10 SAN DIEGO DIVISION
11

12 In re) Case No. 10-16454-LT13
13)
14) Chapter 13
15 Diane J. Beall,)
16)
17 Debtor.) **OBJECTION TO CONFIRMATION**
18) **OF AMENDED CHAPTER 13**
19) **PLAN**
20)
21) **341(a) Meeting of Creditors:**
22) Date: 3/14/2011
23) Time: 10:00 AM
24) Place: 402 West Broadway
25) San Diego CA
26)
27) **Confirmation Hearing:**
28) Date: 6/15/2011
29) Time: 2:00 PM
Ctrm: Dept. 4, Room 328
Place: 325 West F Street
San Diego CA
)
Judge: Laura S. Taylor
)

1 OneWest Bank, FSB, its assignees and/or successors, ("Secured Creditor") in the above-
2 entitled Bankruptcy proceeding, hereby submits the following Objections to Confirmation of the
3 Amended Chapter 13 Plan proposed by ("Debtor") Diane J. Beall.

4 1. This objecting Secured Creditor services and is entitled to receive payments
5 pursuant to a Promissory Note which matures on 8/1/2033 and is secured by a Deed of Trust on
6 the subject property commonly known as 16377 Arnold Avenue, Lake Elsinore, CA 92530. As
7 of 9/16/2010, the amount in default was \$10,100.08, as described in the Proof of Claim filed by
8 this Secured Creditor on or about 12/8/2010, incurred with respect to the default. **See Exhibit**
9 **"1"**.

10 2. The proposed Amended Plan does not provide for pre-petition arrearages owed to
11 Secured Creditor. To cure the pre-petition arrearages of \$10,100.08 over the term of the
12 Amended Plan within 60 months, Secured Creditor must receive a minimum payment of \$168.33
13 per month from the Debtor through the Amended Plan. Although Debtor does not provide for
14 payments to Secured Creditor, Debtor's Amended Plan provides for payments to the Trustee in
15 the amount of \$162.00 per month for 60 months which is equal to Debtor's monthly net income.
16 Debtor does not appear to have sufficient funds available to cure the arrears over the term of the
17 Amended Plan within 60 months. Therefore, the Amended Plan may not be feasible. A true and
18 correct copy of Debtor's Amended Schedules I and J is attached hereto as **Exhibit "2"**.

19 3. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtor shall
20 commence making the payments proposed by the Amended Plan within 30 days after the Petition
21 is filed. The Amended Plan must comply with all applicable provisions of 11 U.S.C. § 1325 to
22 be confirmed. As such, the Amended Plan cannot be confirmed.

23 4. The Debtor's Amended Plan proposes to pay unsecured creditors ahead of the
24 secured claim of the objecting Creditor. Such a proposal is not allowed and Secured Creditor
25 objects to such a plan. Accordingly, the Amended Plan should not be confirmed.

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CONCLUSION

Any Chapter 13 Plan proposed by the Debtor must provide for and eliminate the Objections specified above in order to be reasonable and to comply with applicable provisions of the Bankruptcy Code. Secured Creditor respectfully requests that confirmation of the Amended Chapter 13 Plan as proposed by the Debtor be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor.

WHEREFORE, Secured Creditor prays as follows:

1. That confirmation of the Proposed Amended Chapter 13 Plan be denied, or in the alternative, be amended to provide for full payoff of the arrearages owed to Secured Creditor within 60 months;

2. For attorneys' fees and costs herein,

3. For such other relief as this Court deems proper.

Respectfully submitted,

McCarthy & Holthus, LLP

By: /s/ Brielyn Sesko, Esq.
Brielyn Sesko, Esq.
Attorney for Secured Creditor
OneWest Bank, FSB